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ON December 10, 2007

Mark B. Quatt Registration No. 30,484

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: McAllister et al.
Serial No.: 10/648,027
Filing Date: August 26, 2003
Docket No: D-43656-01
Examiner: Ahmed, Sheeba
GAU: 1773
Title: Polymeric Film With Low Blocking And High Slip Properties

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the final Office Action mailed September 10, 2007. No amendments are filed with this request.

This Request is being filed with a Notice of Appeal.

This Request is made for the reasons stated in the Remarks section beginning on the following page. The Remarks section comprises no more that five pages.

The Commissioner is authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. 07-1765.

Respectfully submitted,

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12-10-07
Date

Remarks

The Office action states at page 4 that

While the applicants state that they have unexpected result for the claimed combination of materials, there is nothing on the record to show that this is the case.

Applicants very much disagree with this conclusion.

For the sake of brevity, the claim amendments introduced in applicants' most recent response are not repeated here. The result of the amendments is that Independent claims 7 and 14 include among others the requirements that

- a first and second outer layer each comprises primary fatty amidic wax in an amount of 15% to 50% of the amount of primary fatty amidic wax in the respective substrate layer (claim 7); or that a first and second outer layer each comprises primary fatty amidic wax in an amount of 15% to 50% of the amount of primary fatty amidic wax in the substrate layer (claim 14);
- from 1,000 ppm to 5,000 ppm of a transition metal salt of stearic acid, or ester of stearic acid, is present in at least one of the first and second outer layers, and the first and second substrate layers (or substrate layer for claim 14); and
- the first and second substrate layers (claim 7) or the substrate layer (claim 14) each comprises from 4,000 ppm to 10,000 ppm of oleamide.

The benefit of the combination of these components in a single film is seen in Example 24 of Table 7. Example 24 was the same *in all relevant particular*s as Example 23, *but* included 5,000 ppm glycerol monostearate in each of the substrate layers. **The result (see Table 7) was that the first and second outer layers of the film of Example 24 each had an outside surface total amide coating of 14.3 micrograms/inch^2, compared with only 10.9 micrograms/inch^2 for Example 23**. The significance of this difference? The higher amide surface coating provides a polymeric film that exhibits adequate film surface properties characterized by a low coefficient of friction (COF) and high slip. These properties are desirable for the film to run properly on packaging equipment used by food processors and other packagers, for example, on Vertical Form Fill Seal (VFFS) equipment.

Table 8 discloses Examples 25 and 26, that have outer layers comprising a primary fatty amidic wax in an amount of only 10% of the amount of primary fatty amidic wax in the respective substrate layers. Also, neither Example 25 nor Example 26 had any oleamide in the substrate layers. Example 27 did have 5,000 ppm of oleamide in each of the substrate layers,

but had outer layers comprising a primary fatty amidic wax in an amount of only 5% of the amount of primary fatty amidic wax in the respective substrate layers. In contrast, in Example 28, the first and second outer layers comprised primary fatty amidic wax (erucamide and oleamide) in an amount of 19% (thus from 15% to 50%) of the amount of primary fatty amidic wax in the respective substrate layer; at least one of the first and second outer layers, and the first and second substrate layers comprised 2000 ppm zinc stearate; and the first and second substrate layers each comprised 8,000 ppm of oleamide. **The result (see Table 8) was that the first and second outer layers of the film of Example 28 had an outside surface total amide coating of 15.8 micrograms/inch^2, compared with only 5.3, 8.3, and 4.2 micrograms/inch^2 respectively for Examples 25 to 27.**

Table 9 discloses Examples 29 to 32, all falling within the amended claim language of claim 7. They each had a first and second outer layer each comprising primary fatty amidic wax in an amount of 15% to 50% of the amount of primary fatty amidic wax in the respective substrate layer. The percentage values ranged from 17% (Example 30) to 22% (Example 31). Examples 29 to 32 each disclose either 2000 ppm or 2300 ppm zinc stearate (thus from 1,000 ppm to 5,000 ppm of a transition metal salt of stearic acid, or ester of stearic acid) in at least one of the first and second outer layers, and the first and second substrate layers. Finally, they each disclose first and second substrate layers each comprising either 8,000 ppm or 9200 ppm (thus from 4,000 ppm to 10,000 ppm) of oleamide. **The result (see Table 9) was that the first and second outer layers of the films of Examples 29 to 32 had an outside surface total amide coating ranging from 10.0 to 15.4 micrograms/inch^2, again compared with only 5.3, 8.3, and 4.2 micrograms/inch^2 respectively for Examples 25 to 27.**

The Office action states at page 5 that

> It is unclear to the Examiner whether the above-described properties are unexpected and how they extend over the claimed range.

Applicants respectfully submit that a fair reading of the recited references does not demonstrate, nor lead the skilled artisan, to the improved performance clearly demonstrated in the examples cited above from the specification; and that the claims as amended are commensurate in scope with the examples given above.

For the foregoing reasons, Applicants respectfully request that the rejections be reversed.

Respectfully submitted,

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